IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 6570 of 2006
Date of decision : 11.12.2006.

Raj Singh & Anr.

.....Petitioners.

Versus

Ram Chand & Ors.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.L.N. Verma,Advocate
for the petitioners.

Mr. Vikas Kumar, Advocate
for the caveator - respondent No.1.

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VINOD K. SHARMA,J.(ORAL)

The petitioners have challenged the order dated 29.7.2006 passed by the learned Addl. District Judge, Sirsa, which reads as under :-

> "This appeal received by assignment. It be checked and registered. Since, there are arguable points involved in this appeal. Therefore, it is admitted for hearing. Lower Court records be summoned and notice of the appeal be given to the respondents No. 2 to 5 for 1.9.2006 on filing of summon forms, copies of grounds of appeal and registered covers etc. by the appellants today itself. Till then respondents are hereby restrained from dispossessing the appellants from the property in dispute except in due process of law. It is pertinent to mention here that this order of stay shall not cause any bar if the appellants are dispossessed from the property in the execution of a lawful decree."

The reading of the order shows that while learned Appellate Court has stayed the dispossession of the petitioners by holding that there were arguable points involved in the appeal and, therefore, respondents be restrained from dispossessing the appellants from the property in dispute but at the same time it permitted the respondents to execute the decree. However, the learned counsel for the caveator pointed out that the petitioners herein were not the plaintiff but defendants in the suit and, therefore, no appeal was competent on their behalf.However, keeping in view the fact that the impugned order seems to be contradictory on the face of it, the same is set aside and the case is remanded back to the learned Addl. District Judge, Sirsa to decide the stay application moved by the petitioners in accordance with law by passing a detailed speaking order.

Revision petition stands disposed of.

11.12.2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**